

*Senate Budget and Fiscal Review—Wesley Chesbro, Chair***SUBCOMMITTEE NO. 4****Agenda**

Joseph Dunn, Chair
Tom McClintock
Christine Kehoe



Wednesday, April 13, 2005
1:00 p.m.
Room 2040

Consultant: Dave O'Toole

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Sec. 31.00 Budget Act Administrative Procedures for Salaries and Wages
Sec. 33.00 Item Veto Severability

Department Budgets Proposed for Consent / Vote Only**VOTE:**

Department Budgets Proposed for Discussion

0650 Office of Planning and Research

The Office of Planning and Research (OPR) assists the Administration with planning, research and liaison with local governments. OPR also oversees programs for small business advocacy, rural policy, environmental justice, and helps implement decisions made within the Administration. In addition, the office oversees responsibilities pertaining to state planning, California Environmental Quality Act assistance, environmental and federal project review procedures, and oversees the California Service Corps. Total proposed budget expenditures are \$47.2 million, of which \$4.1 million is from the General Fund.

Summary of Expenditures (dollars in thousands)				
	2004-05	2005-06	\$ Change	% Change
Programs				
State Planning and Policy Development	\$3,420	\$4,153	\$733	21.4
California Service Corps	43,818	43,164	-654	-1.5
Unallocated Reduction	0	-62	-62	0.0
Total, Programs	\$47,238	\$47,255	\$17	0.0
Fund Source				
General Fund	\$2,878	\$4,076	\$1,198	41.6
Property Acquisition Law Money Acct.	521	0	-521	-100.0
Federal Trust Fund	42,761	42,779	18	0.0
Reimbursements	1,078	400	-678	-62.9
Total, Fund Source	\$47,238	\$47,255	\$17	0.0

- Office of Planning and Research Guidelines for Tribal Consultations.** In an April 1 Finance Letter, the Administration proposed a \$202,000 reduction to a previously submitted budget change proposal (BCP) for \$390,000 to enable the Office of Planning and Research (OPR) to develop guidelines for local-tribal consultation (net requested funding: \$188,000). In accordance with Chapter 905, Statutes of 2004 (SB 18), the OPR is directed to develop consultation guidelines for local governments and tribes in order to encourage protection of Native American lands. The OPR requests ongoing staff support to update guidelines, provide consultation with Native American tribes and local governments, and conduct outreach and workshops to these stakeholders.

Staff Comment: The workload information in the BCP and Finance Letter describes trainings, consultations, and outreach that are likely a declining workload. As more local and tribal officials understand the changes in the new guidelines and amendments are agreed to, the OPR may be able to redirect staff for the remaining workload. For example, the OPR has reported that it was able to redirect existing staff to develop the initial tribal guidelines.

Staff Recommendation: As requested in the Finance Letter, reduce budgeted funding for OPR by \$202,000 to reflect revised funding of \$188,000 AND establish the senior planner and administrative assistant positions on a two-year limited term basis.

Vote:

0840 State Controller

The State Controller is the Chief Financial Officer of the state. The primary functions of the State Controller (SCO) are to provide sound fiscal control over both receipts and disbursements of public funds; to report periodically on the financial operations and condition of both state and local government; to make certain that money due the state is collected through fair, equitable, and effective tax administration; to provide fiscal guidance to local governments; to serve as a member of numerous policy-making state boards and commissions; and to administer the Unclaimed Property and Property Tax Postponement Programs. Total proposed budget expenditures are \$124.7 million, of which \$72.7 million is from the General Fund.

Summary of Expenditures (dollars in thousands)				
	2004-05	2005-06	\$ Change	% Change
Programs				
Accounting and Reporting	\$12,680	\$14,266	\$1,586	12.5
Audits	22,908	24,232	1,324	5.8
Personnel and Payroll Services	26,338	32,559	6,221	23.6
Information Systems	14,080	14,227	147	1.0
Collections	15,825	15,455	-370	-2.3
Disbursements and Support	35,513	35,666	153	0.4
Distributed to Other Programs	-9,645	-9,661	-16	0.0
Loan Repayment Programs	-2,140	-2,054	86	0.0
Unallocated Reduction pursuant to Budget Control Section 33.50	-449	0	449	0.0
Total, Programs	\$115,110	\$124,690	\$9,580	8.3
Fund Source				
General Fund	\$70,969	\$72,695	\$1,726	2.4
Federal Trust Fund	1,253	1,258	5	0.4
Reimbursements	32,882	34,020	1,138	3.5
Other Funds	10,006	16,717	6,711	67.1
Total, Fund Source	\$115,110	\$124,690	\$9,580	8.3

1. **Salary Savings Level for Augmentations.** Salary savings is the amount of salary expense that a department saves when a position is vacant or filled at a lower salary level than the budgeted level. When new positions are established, it is customary to budget a set five percent salary savings rate to account for time taken to fill the position and other routine periods of vacancy over the "life" of the position (there are occasional exceptions for very small departments, commissions, etc.).

The Budget Change Proposals (BCPs) and Finance Letters provided by the SCO reflect a 2.4 percent salary savings rate, a rate consistent with the department's overall salary savings rate. The SCO

reports that the lower rate is a result of recent budget reductions that have eliminated many of the vacant positions that are normally accounted for in salary savings. The Department of Finance has concurred with that assertion.

Staff Comment: While recent budget reductions, lower than expected retirements, and other offsetting factors may have caused the department's overall salary savings rate to drop well below five percent, these developments do not justify a lower salary savings rate *on a prospective basis*. If left understated, the 2.4 percent salary savings built into all of the department's 2005-06 BCPs and Finance Letters will result in overbudgeting and/or avoidance of a reduction.

Staff Recommendation: Reduce the following BCPs by the indicated amounts to reflect the customary five percent salary savings rate. The outstanding 2004-05 Finance Letters should also be subject to the adjustment when considered.

Budget Change Proposal	Adjustment Amount
California Automated Travel Expense Reimbursement System:	-\$6,000
Unclaimed Property Program Staffing	-\$14,000
On line Classroom Program Reviews (Chapter 429, Stats. 2003):	-\$3,000
Technology Trade and Commerce Program Debt Collection	-\$3,000
California Child Support Automation System Support Redirection	-\$0*
TOTAL BCP ADJUSTMENT	-26,000

*\$3,000 will revert to the SCO's operating expense budget

Vote:

2. **Property Tax Postponement Program Staffing Augmentation.** The Governor's Budget includes an augmentation of \$4.7 million to the Senior Citizen's Property Tax Deferral Program, in conjunction with a \$100 million reduction to a related property tax assistance programs for seniors. (This change is budgeted in Tax Relief item 9100, not the State Controller's item.) In response to the reductions in grants, it is anticipated that a surge in property tax postponement applications will occur. These applications are processed by the State Controller's Office.

The Governor's Budget further includes an augmentation of two positions and \$100,000 in the State Controller's budget to process an anticipated 5000 applications, from which 3100 new loans will be made. The workload backup, however, shows a need for 5 positions if 5000 applications are reviewed. Information received to date suggests that the two new positions built into the Governor's Budget were based on grants made, not the number of applications reviewed.

The LAO has not concurred with the DOF/SCO 5000 applications estimate and has suggested the number of applications will be higher.

Perhaps responding to the uncertainty over positions needed, an April Finance Letter was submitted with budget bill language to allow mid-year staffing augmentations in the Property Tax Postponement Program.

Item 0840-001-0001:

The Director of Finance may authorize expenditures in excess of the amount appropriated in this item by an amount necessary to fund unanticipated workload increases associated with increased

participation in the Property Tax Postponement Program. Expenditures pursuant to this authorization shall not be made prior to 30-days after the Department of Finance notifies the Joint Legislative Budget Committee of the amounts necessary or not sooner than such lesser time as the Chairperson of the Joint Legislative Budget Committee may determine.

Staff Comment: While there has been some uncertainty to date, a reasonable, conservative estimate of applications and workload—one that does not require mid-year correction—may still be attainable prior to the May Revision hearings. The budget bill language is an unusual and unnecessary exception to the Legislature's authority to establish positions. It should also be noted that funding in the Budget Act is seldom exact and underestimates of workload are routinely handled by departments with absorptions and internal redirections until the next budget cycle (when an augmentation is requested).

Notwithstanding these workload considerations, the augmentation to the senior citizens' property tax postponement program and reductions to the grant program must still be considered in the April 27 Sub 4 hearing. Authorization for any new postponement program positions must follow decisions on the grant program.

Staff Recommendations:

- A. Reject the budget bill language.
- B. Hold open the Governor's Budget request for two positions.
- C. Direct the SCO, DOF, and LAO to consult on a reasonable, conservative estimate of positions needed and report back prior to May Revision hearings.

Vote

3. **Mandates Auditors.** The State Controller receives nearly 75,000 claim forms from local agencies and schools for reimbursement for state mandated activities. As it is often noted, due to unclear claiming guidelines, overzealous applicants, among other reasons, actual costs are sometimes much lower than the total claim submitted. The SCO conducts detailed "desk" audits to detect costs that are outside the scope of the mandate on approximately 5 percent of the 75,000. This five percent is made up of large dollar and new claims. Existing mandates of moderate or low cost are not desk audited, but do receive a quick arithmetic check and scan for obvious flaws.

Government Code 17616 provides the SCO the authority to (a) audit the first year of a claim, base year plus up to three years (adjusting payments as necessary for errors), and (b) conduct field audits to ensure services described are being delivered.

The SCO's Division of Audits conducts audits on a tiny fraction of the 75,000 mandates claims received. Even so, these audits generally identify a large number of errors or over-claims. In 2002-03, SCO's auditors performed 27 audits on \$77.5 million of claimed costs, resulting in \$54.0 million in audit findings (a 70 percent error rate). In 2003-04, 34 audits were conducted on \$50.9 million of claimed costs, resulting in \$25.7 million in audit findings (a 51 percent error rate). In the current year, 58 audits have been conducted to date on \$176.1 million in claimed costs, with \$75.3 million disallowed (a 43 percent error rate).

Staff Comment: Information received from the SCO indicates that additional auditors would result in the identification of more flawed or fraudulent claims. From a cost-benefit perspective, the SCO estimates that 10 additional auditor positions will identify unallowable costs at a rate of 45 times the cost of the position. Those unallowable costs will come in the form of either savings to budgeted payment amounts (a \$44 million expenditure in the 2005-06 Governor's Budget) or a reduction to the repayment backlog—now estimated to exceed \$2.6 billion in 2005-06.

The Division of Audits currently utilizes 32 positions to conduct mandates audits. If the division were to add 10 auditors and one analyst at a cost of \$996,000, the savings are expected to be \$44.8

million. That is, the liability that the state has to pay past due (i.e. deferred) mandates would be reduced by \$44.8 million.

Staff Recommendation: Augment the SCO budget by \$996,000 and 11 positions (10 associate management auditors and 1 staff services analyst) to conduct audits on a two-year limited term basis. After two years, the performance of the auditors and the need to amend the staffing level or extend the positions for a longer period should be reevaluated by the Administration and Legislature.

Vote:

0845 Department of Insurance

Under the direction of the Insurance Commissioner, the Department of Insurance (DOI) regulates the largest insurance market in the United States with over \$115 billion in direct premiums written in the state. The Department conducts examinations and investigations of insurance companies and producers to ensure that operations are consistent with the requirements of the Insurance Code and that insurance companies are financially able to meet their obligations to policyholders and claimants.

Summary of Expenditures (dollars in thousands)				
	2004-05	2005-06	\$ Change	% Change
Programs				
Regulation of Insurance Companies and Producers	\$59,969	\$65,256	\$5,287	8.1%
Consumer Protection	43,881	48,681	-200	9.9
Fraud Control	81,950	77,788	-4,162	-5.4
Tax Collection and Audits	1,919	2,061	142	7.4
Administration	24,986	27,653	2,667	6.7
Distributed Administration	-24,986	-27,653	-2,667	-6.7
Total, Programs	\$187,719	\$193,786	\$6,067	3.1%
Fund Source				
Insurance Fund	\$187,469	\$193,536	\$6,067	3.1%
Reimbursements	250	250	0	0.0
Total, Fund Source	\$187,719	\$193,786	\$6,067	3.1%

- 1. Finance Letters:** The Department of Insurance requests augmentations from the Insurance Fund for the following purposes:

Title	Description	Positions	Cost (\$s in 000s)
Organized Automobile Fraud Activity Interdiction (Urban Grant) Program	One-time augmentation to support local district attorney's investigation, prosecution, and enforcement activities against specific automobile fraud activities in urban centers.	0	\$2,410 (Insurance Fund)
Increased Local Assistance Spending Authority for Automobile Insurance Fraud	Distribution of additional fee collections (\$1,453 ongoing, \$1,403 one time) to supplement district attorney's automobile insurance fraud programs.	0	\$2,856 (Insurance Fund)
Workers' Compensation Insurance Fraud Program	Ongoing augmentation for prosecution of worker's compensation fraud in accordance with actions taken by the Governor-appointed Fraud Assessment Commission.	0	\$1,018 (Insurance Fund)

Staff Recommendation: Approve the three finance letters.

Vote:

2. **Reversion of Credit Card Payment Efficiencies.** The Governor's Budget includes a request for \$200,000 to cover costs for the fees the DOI pays to credit card companies for licensing transactions to apply, renew, or schedule exams. The department does not charge applicants a fee to pay by credit card. To date, the department has absorbed these costs, which grew from just \$17,000 in 2002-03 to \$122,000 in 2003-04. The department notes that greater use of online application and payment generates efficiencies. Specifically, online filing and scheduling has reduced processing time from six to eight weeks down to two to three weeks. According to the department, these efficiencies fully offset the cost of credit card charges.

LAO Comment: The department plans to redirect the savings to reduce backlogs in other work. These savings in staff time, however, should be used to cover the credit card costs. If the department desires to address other workload, it should submit a proposal for the Legislature's consideration in the May Revise.

LAO Recommendation: Legislature delete \$200,000 requested for credit card charges because licensing efficiencies from online filing fully offset this cost. (Reduce Item 0845-001-0217 by \$200,000.)

Staff Recommendation: Adopt the LAO Recommendation and reduce Item 0845-001-0217 by \$200,000.

Vote:

3. **Replacement of Personal Computers, Servers, and Printers.** The DOI requests \$729,000 (Insurance Fund) to fund ongoing replacement of personal computers, servers, and printers on a regular cycle of three to five years, depending on the equipment. Technology equipment replacement is not typically funded as part of a department's operating expense budget, but instead is funded by redirections from other sources. The DOI had previously redirected from excess salary savings to pay for upgrades and replacements. However, recent position eliminations processes eliminated that funding source and the department has submitted a BCP.

Staff Comment: According to the state's Department of General Services, a computer replacement rate of four years is consistent with industry best practice, however it is not unusual for that rate to be pushed to five years or more during difficult fiscal periods.

The LAO has also noted that DOI has not completed a business analysis of printer needs to determine an appropriate level of funding.

Staff Recommendation: Reduce request by \$48,642 and fund for one year only. This reduction reflects implementation of a four-year replacement schedule for notebook users (-\$27,842) and "power" users (-\$6,800), and reduced funding for the replacement of 44 printers in the budget year (-\$14,040).

For subsequent budget proposals, the Department of Insurance should complete a business needs analysis of technology equipment needs (factoring in longer life of newer PCs and monitors in particular) to determine an appropriate level of ongoing funding.

Vote:

0950 State Treasurer's Office

The State Treasurer, a constitutionally established office, provides banking services for State government with the goals of minimizing interest and service costs and maximizing yield on investments. The Treasurer is responsible for the custody of all monies and securities belonging to or held in trust by the State; investment of temporarily idle State monies; administration of the sale of State bonds, their redemption and interest payments; and payment of warrants drawn by the State Controller and other State agencies.

The Treasurer's Office also plays a central administrative role to numerous state boards, authorities and commissions. The Treasurer serves as chair or member of these various agencies that organizationally report to the State Treasurer's Office. Many of these agencies are authorized to issue debt for specific purposes as permitted by law. These agencies also may advise California municipalities on debt issuance and oversee the state's various investment operations.

Total proposed budget expenditures for the State Treasurer's Office are \$22.7 million, of which \$6.1 million is from the General Fund.

Summary of Expenditures				
(dollars in thousands)	2004-05	2005-06	\$ Change	% Change
Programs				
Investment Services	\$2,715	\$2,709	-\$6	-0.2
Cash Management	7,623	7,603	-20	-0.3
Public Finance	5,992	5,973	-19	-0.3
Securities Management	4,260	4,249	-11	-0.3
Administration and Information Services	9,714	9,874	160	1.6
Distributed Administration	-7,680	-7,693	-13	0.0
Total, Programs	\$22,624	\$22,715	\$91	0.4
Fund Source				
General Fund	\$6,028	\$6,068	\$40	0.7
Reimbursements	16,596	16,647	51	0.3
Total, Fund Source	\$22,624	\$22,715	\$91	0.4

- Budget Bill Language Loan Authority.** The Governor's Budget includes Budget Bill language that would enable the Director of Finance to authorize a no interest, short-term loan from the General Fund to the State Treasurer's Office for the purpose of meeting cash shortfalls resulting from delayed reimbursements from other funds. Budget bill language is as follows:

- The Director of Finance may authorize a loan from the General Fund, in an amount not to exceed the level of reimbursements appropriated in Schedule (3) of this item to the State Treasurer's Office, provided that:*
 - The loan is to meet cash needs resulting from a delay in receipt of reimbursements.*

- (b) The loan is short term, and shall be repaid within six months.*
- (c) Interest charges may be waived pursuant to subdivision (e) of Section 16314 of the Government Code.*
- (d) The Director of Finance may not approve the loan unless the approval is made in writing and filed with the Chairperson of the Joint Legislative Budget Committee and the chairperson of the committees in each house that considers appropriations not later than 30 days prior to the effective date of the approval, or not sooner than whatever lesser time the chairperson of the joint committee or his or her designee may determine.*
- (e) At the end of the six-month term of the loan, the State Treasurer's Office shall notify the Chairperson of the Joint Legislative Budget Committee whether the State Treasurer's Office has repaid the loan pursuant to subdivision (d) of Provision 1.*

Staff Comment: The budget change proposal provided indicates that loans will be paid within two months of origination. Consequently, it is unnecessary to grant six months for repayment of a General Fund loan.

Staff Recommendation: Amend provision 1 (b) of the budget bill language as follows:

- (b) The loan is short term, and shall be repaid within ~~six~~ two months.*

Vote:

0968 California Tax Credit Allocation Committee

The California Tax Credit Allocation Committee (CTCAC) is entrusted to form public/private partnerships to assist in the development and maintenance of quality rental housing communities that are affordable to low-income Californians. The CTCAC acts as a credit agency and conducts project compliance monitoring.

Summary of Expenditures				
(dollars in thousands)	2004-05	2005-06	\$ Change	% Change
Programs				
California Tax Credit Allocation Committee	\$2,705	\$3,032	\$327	10.8
Community Revitalization Program	258	264	6	2.3
Total, Programs	\$2,963	\$3,296	\$333	10.2
Fund Source				
Occupancy Compliance Monitoring Account	\$1,081	\$1,347	\$266	19.8
Tax Credit Allocation Fee Account	1,594	1,625	31	2.0
Reimbursements	30	60	30	100.0
Community Revitalization Fee Fund	258	264	6	2.3
Total, Fund Source	\$2,963	\$3,296	\$333	10.2

1. Finance Letter: Staffing Realignment. The CTCAC requests to decrease Item 0968-001-3038 by \$172,000 and increase item 0968-001-0457 by an equal amount. This fund shift will reflect the permanent redirection of two Associate Governmental Program Analyst positions from the Community Revitalization Program to the Tax Credit Allocation Fee Program. Workload analysis demonstrates a decrease in activity in the Community Development Program and an increase of over 4000 hours of work in the Fee Program.

Staff Recommendation: Approve Finance Letter.

Vote

8885 Commission on State Mandates

The Commission on State Mandates (CSM) is a quasi-judicial body that makes the initial determination of state mandated costs. The Commission is tasked to fairly and impartially determine if local agencies and school districts are entitled to reimbursement for increased costs mandated by the state. Total proposed budget expenditures for the Commission on State Mandates are \$1.6 million, all of which is state General Fund.

Summary of Expenditures				
(dollars in thousands)	2004-05	2005-06	\$ Change	% Change
Programs				
Administration	\$1,218	\$1,658	\$440	36.1
Unallocated Reduction	0	-29	-29	0.0
Total, Programs	\$1,218	\$1,629	\$411	33.7
Fund Source				
General Fund	\$1,218	\$1,629	\$411	33.7
Total, Fund Source	\$1,218	\$1,629	\$411	33.7

- Trailer Bill: Suspension of Mandates.** The Administration has provided a trailer bill (attached) that will add an option to identify a suspended mandate by CSM test claim number, in addition to executive order or statute. This technical fix will reduce ambiguity regarding the actual suspended mandate. The attached language has also been introduced as AB 1467.

Staff Recommendation: Approve trailer bill.

Vote:

9210 Local Government Financing

Local governments receive a variety of subventions from the state for designated purposes such as health, welfare, and public safety programs. The state provides other assistance to local governments, primarily counties, through other direct programs contained in other items in the budget. For example, Health and Human Services has numerous programs where the state and counties jointly provide funding for services. State funding is also included in Public Safety for such issues as local crime labs and suppression of high intensity drug trafficking areas. Local Government Financing proposed in 2005-06 totals \$157.4 million, all of which is General Fund.

Summary of Expenditures				
(dollars in thousands)	2004-05	2005-06	\$ Change	% Change
Programs				
Aid to Local Governments	\$118,571	\$54,334	-\$64,237	-54.2
Citizens' Option for Public Safety (COPS) and Juvenile Justice Programs	199,725	100,000	-99,725	-49.9
Special Supplemental Subventions	650	650	0	0.0
State-Mandated Local Programs	0	2408	2,408	0.0
Total, Programs	\$318,946	\$157,392	-\$161,554	-50.7
Fund Source				
General Fund	\$318,946	\$157,392	-\$161,554	-50.7
Total, Fund Source	\$318,946	\$157,392	-\$161,554	-50.7

- Juvenile Justice Grants.** The Governor's Budget eliminates \$100 million in General Fund support for the Juvenile Justice Crime Prevention Act (JJCPA) program, a program that provides discretionary funding for juvenile justice activities to counties on a per capita basis. In what the Administration regards as a corresponding augmentation, the Budget diverts \$25 million to the Board of Corrections "for distribution to local governments."

The Governor's Budget Summary reports that negotiations are occurring between the Administration and local governments on all statewide changes in the Juvenile Justice system. These negotiations will consider funding for all corrections activities affecting minors. The outcome of those meetings as they address JJCPA funding is expected to be presented in the May Revision.

Trailer bill is attached.

Staff Comment: The JJCPA (Chapter 333, Statutes of 2000) established a stable funding source for local juvenile justice programs. The programs have a carefully documented record of curbing crime and delinquency among at-risk youth and young offenders. The JJCPA supports 193 collaborative programs in 56 counties to address tailored needs and responses to juvenile crime.

Based on research conducted by the California Board of Corrections, the JJCPA Programs as a whole are making a significant difference in curbing crime and delinquency. In analysis comparing juveniles who receive program services versus those who don't, it was found that:

- An average 21.8 percent of program juveniles were arrested vs. 32.5 percent in the reference group
- An average 18.2 percent of program juveniles were incarcerated vs. 23.4 percent for the reference group
- An average 56.3 percent of program juveniles completed court-ordered community service vs. 39.4 percent for the reference group

(Source: California Board of Corrections Annual Report of the Juvenile Justice Crime Prevention Act)

The Governor's Budget proposal not only unfunds JJCPA programs, it also de-links them from the Citizen's Option for Public Safety (COPS) program. The two discretionary crime funding programs had been linked in an arrangement intended by the Legislature in the authorizing legislation (AB 1913, 2000) to equally fund crime deterrence (JJCPA) and crime prosecution (COPS) activities.

Staff Recommendation: Hold open the Governor's Budget proposal to eliminate juvenile justice funding.

Vote:

2. **Mandate: Open meetings.** The Administration proposes to restructure the Open Meetings mandate and provide \$2 million in 2005-06 funding, a funding level significantly below the \$15 million expense expected in the current year. In a recent staff meeting, the Department of Finance provided *draft* trailer bill language and explained that the language is expected to support a much narrower scope of printing costs and postage (approximately \$2 million).

LAO Comment: In 1953, the Legislature enacted the Brown Act, declaring, "all meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body." Because the Brown Act preceded the 1975 operative date of mandate law, its requirements are *not* a state-reimbursable mandate. Instead, the Open Meeting Act "mandate" pertains to certain post-1975 procedural amendments to the Brown Act, most notably the requirement that local agencies prepare and post agendas 72 hours before a hearing (Chapter 641, Statutes of 1986 [AB 2674, Connelly]).

California residents have shown longstanding interest in open hearings, and the state's voters recently enacted Proposition 59, amending the State Constitution to specify that meetings of public bodies and writings of public officials must be open to public scrutiny. Accordingly, legislative action to eliminate (or make optional) the *procedural elements* of the Open Meeting Act mandate would not likely reduce people's ability to monitor local agency actions.

Accordingly, when considering the Administration's Open Meeting Act mandate proposal, we recommend the Legislature consider, as an alternative, making the Open Meeting Act mandate optional (the Brown Act would still be in force). This alternative would eliminate all future state reimbursable costs for this mandate, as well as the requirement that the Legislature include funding for the mandate's 2004-05 costs in the 2005-06 budget.

Staff Recommendation: Hold open the proposed suspension until (1) the Department of Finance provides final trailer bill language and (2) the LAO has validated DOF's cost estimates.

Vote:

- 3. Mandate: Photographic Records of Evidence.** This mandate requires local law enforcement agencies to provide photographs, chemical analyses, and other substitutes for evidence that a court determines poses a health, safety, security, or storage problem. In their mandate claims, local agencies typically request reimbursement for purchases of high-tech digital imaging and printing equipment. The Administration proposes to suspend this mandate in the budget year.

LAO Comment: The responsibility for managing evidence used in the courts should rest with law enforcement agencies. The Administration's proposal to suspend this mandate in the budget bill, however, raises two concerns. It could:

- **Add Ambiguity to the Laws of Evidence.** As was discussed in *An Assessment: Governor's Local Government Proposal* (May 2004), when a mandate is suspended, the suspension applies only to the sections of law (or laws) found to be a mandate by the CSM. All other provisions in the statute continue to have the force of law, but interpreting these remaining provisions (which may refer to the suspended provisions) can become very difficult. Because the Photographic Record of Evidence mandate pertains to an area of law where ambiguity could have serious consequences, we recommend the Legislature carefully craft permanent changes to the mandate's underlying statute, rather than using the suspension process.
- **Increase Court Costs.** In 1985, court concerns regarding evidence storage and handling costs prompted passage of the subject legislation. At the time this analysis was prepared, we were not able to determine whether courts currently have sufficient authority—independent of this mandate legislation—to require local agencies to submit substitute evidence. If this mandate's suspension were to result in local agencies submitting some evidence that they currently do not submit, courts could experience increased storage and handling costs.

Staff Comment: It is unclear, at this point, that the Administration has evaluated the offsetting expenses to the savings posed by suspending the Photographic Records of Evidence mandate.

Staff Recommendation:

- A. Hold open the requested suspension of the Photographic Records of Evidence mandate, pending validation of cost savings relative to additional burdens on the courts system.
- B. Direct LAO to prepare trailer bill language to repeal the Photographic Records of Evidence mandate and, if necessary, enact provisions clarifying or expanding the court's authority to require substitute evidence.

Vote:

- 4. Mandate Reimbursement Process.** This mandate reimburses local agencies for their administrative costs to file mandate test claims and reimbursement claims.

LAO Comment: Typically, local agencies request reimbursement for their costs to (1) contract with mandate consulting firms and (2) oversee their consultants' contracts. The administration proposes to suspend this mandate in 2005-06. As a result, local agency actions to file test claims or reimbursement claims would be "optional." That is, local agencies would not be required to follow the mandate reimbursement process. However, by not following the process, local agencies would not receive state reimbursements of mandated local costs (as promised under the State Constitution).

There are problems with the current reimbursement process mandate.

First, it is expensive. Many local agencies' claims for their administrative filing costs equal or exceed 15 percent of their total claims. In large part, local agencies face little incentive to minimize mandate

claim preparation or test claim filing costs. Instead, local agencies hire firms that specialize in the arcane mandate process and advertise that they can "maximize" local revenues from state reimbursements.

Second, the existence of this reimbursable mandate reduces local agency (and their consultants') incentives to work with the state to develop an alternative, simpler mandate claiming system.

Despite these shortcomings, we cannot concur with the administration's proposal to suspend this mandate. Simply put, the mandate process is a product of state laws and regulations. If the administration finds the existing process objectionable, it is incumbent on it to suggest an alternative method of addressing these costs. The Legislature could assist in this by directing the administration, local agencies, and legislative staff to work together this spring to develop a new and simpler system for reviewing test claims and providing mandate reimbursements.

Staff Comment: Suspension of this mandate appears to require changes to the budget bill. Authority to claim reimbursement for administrative costs was eliminated from the Commission on State Mandates item but inadvertently left in the SCO's item.

Staff Recommendations:

A. Request the Department of Finance to explain how local agencies will be able to submit claims under this suspension and how statute requiring filings within one year will be affected by the proposed suspension. The Department of Finance should also comment on potential infringement upon the Constitutional right to reimbursement.

B. Hold the mandate reimbursement process mandate suspension open until the budget bill language discrepancy is resolved.

Vote:

5. **Property Tax Administration Grants.** The Governor's Budget includes a reduction of \$5.7 million in grants to counties for the Property Tax Administration Program (PTAP). This program had previously been funded at \$60 million. These funds support assessors to make collections for local governments and schools. A key component of the program is a maintenance of effort requirement for Boards of Supervisors to keep assessors funding and staffing at least at the 1994-95 level to be eligible to receive PTAP funds.

Staff Comment: Material submitted by local agencies suggests that the funding reduction is exceeded by the revenues generated for education funding. In Los Angeles County, the benefit-cost ratio has been calculated at \$6.50 for schools for every \$1 in PTAP funding.

From another perspective, Proposition 1A revised funding mechanisms for local governments and provided new protections for property tax and VLF revenues. These new protections should strengthen the incentives for locals to collect property tax funds which could negate a ten percent reduction in overall PTAP funding.

Staff Recommendation: Hold open and request the LAO and DOF provide quantitative analysis of the lost property tax revenues for schools.

Vote:

**Commission on State Mandates Trailer Bill:
Mandates Claims Numbers**

SECTION 1. Section 17581 of the Government Code is amended to read:

17581. (a) No local agency shall be required to implement or give effect to any statute or executive order, or portion thereof, during any fiscal year and for the period immediately following that fiscal year for which the Budget Act has not been enacted for the subsequent fiscal year if all of the following apply: (1) The statute or executive order, or portion thereof, has been determined by the Legislature, the commission, or any court to mandate a new program or higher level of service requiring reimbursement of local agencies pursuant to Section 6 of Article XIII B of the California Constitution.

(2) The statute or executive order, or portion thereof, *or the commission's test claim number*, has been specifically identified by the Legislature in the Budget Act for the fiscal year as being one for which reimbursement is not provided for that fiscal year. For purposes of this paragraph, a mandate shall be considered to have been specifically identified by the Legislature only if it has been included within the schedule of reimbursable mandates shown in the Budget Act and it is specifically identified in the language of a provision of the item providing the appropriation for mandate reimbursements.

(b) Notwithstanding any other provision of law, if a local agency elects to implement or give effect to a statute or executive order described in subdivision (a), the local agency may assess fees to persons or entities which benefit from the statute or executive order. Any fee assessed pursuant to this subdivision shall not exceed the costs reasonably borne by the local agency.

(c) This section shall not apply to any state-mandated local program for the trial courts, as specified in Section 77203.

(d) This section shall not apply to any state-mandated local program for which the reimbursement funding counts toward the minimum General Fund requirements of Section 8 of Article XVI of the Constitution.

SEC. 2. Section 17581.5 of the Government Code is amended to read:

17581.5. (a) A school district may not be required to implement or give effect to the statutes, or portion thereof, identified in subdivision (b) during any fiscal year and for the period immediately following that fiscal year for which the Budget Act has not been enacted for the subsequent fiscal year if all of the following apply: (1) The statute or portion thereof, has been determined by the Legislature, the commission, or any court to mandate a new program or higher level of service requiring reimbursement of school districts pursuant to Section 6 of Article XIII B of the California Constitution.

(2) The statute, or portion thereof, *or the commission's test claim number*, has been specifically identified by the Legislature in the Budget Act for the fiscal year as being one for

which reimbursement is not provided for that fiscal year. For purposes of this paragraph, a mandate shall be considered to have been specifically identified by the Legislature only if it has been included within the schedule of reimbursable mandates shown in the Budget Act and it is specifically identified in the language of a provision of the item providing the appropriation for mandate reimbursements.

(b) This section applies only to the following mandates:

(1) The School Bus Safety I (CSM-4433) and II (97-TC-22) mandates (Chapter 642 of the Statutes of 1992; Chapter 831 of the Statutes of 1994; and Chapter 739 of the Statutes of 1997).

(2) The School Crimes Reporting II mandate (97-TC-03; and Chapter 759 of the Statutes of 1992 and Chapter 410 of the Statutes of 1995).

(3) Investment reports (96-358-02; and Chapter 783 of the Statutes of 1995 and Chapters 156 and 749 of the Statutes of 1996).

(4) County treasury oversight committees (96-365-03; and Chapter 784 of the Statutes of 1995 and Chapter 156 of the Statutes of 1996).

Local Government Financing Trailer Bill: Eliminate Juvenile Justice Program

Section 30061 of the Government Code is amended to read:

30061. (a) There shall be established in each county treasury a Supplemental Law Enforcement Services Fund (SLESF), to receive all amounts allocated to a county for purposes of implementing this chapter.

(b) In any fiscal year for which a county receives money to be expended for the implementation of this chapter, the county auditor shall allocate moneys in the county's SLESF, including any interest or other return earned on the investment of those moneys, within 30 days of the deposit of those moneys into the fund, and shall allocate those moneys in accordance with the requirements set forth in this subdivision. However, the auditor shall not transfer those moneys to a recipient agency until the Supplemental Law Enforcement Oversight Committee certifies receipt of an approved expenditure plan from the governing board of that agency.

(1) ~~Five and fifteen one hundredths percent (5.15%)~~ Ten and three tenths percent (10.3%) to the county sheriff for county jail construction and operation. In the case of Madera, Napa, and Santa Clara Counties, this allocation shall be made to the county director or chief of corrections.

(2) ~~Five and fifteen one hundredths percent (5.15%)~~ Ten and three tenths percent (10.3%) to the district attorney for criminal prosecution.

(3) ~~Thirty nine and seven tenths percent (39.7%)~~ Seventy nine and four tenths percent (79.4%) to the county and the cities within the county, and, in the case of San Mateo, Kern, Siskiyou, and Contra Costa Counties, also to the Broadmoor Police Protection District, the Bear Valley Community Services District, the Stallion Springs Community Services District, the Lake Shastina Community Services District, and the Kensington Police Protection and Community Services District, in accordance with the relative population of the cities within the county and the unincorporated area of the county, and the Broadmoor Police Protection District in the County of San Mateo, the Bear Valley Community Services District and the Stallion Springs Community Services District in Kern County, the Lake Shastina Community Services District in Siskiyou County, and the Kensington Police Protection and Community Services District in Contra Costa County, as specified in the most recent January estimate by the population research unit of the Department of Finance, and as adjusted to provide a grant of at least one hundred thousand dollars (\$100,000) to each law enforcement jurisdiction. For a newly incorporated city whose population estimate is not published by the Department of Finance but which was incorporated prior to July 1 of the fiscal year in which an allocation from the SLESF is to be made, the city manager, or an appointee of the legislative body, if a city manager is not available, and the county administrative or executive officer shall prepare a joint notification to the Department of Finance and the county auditor with a population estimate reduction of the unincorporated area of the county equal to the population of the newly incorporated city by July 15, or within 15 days after the Budget Act is enacted, of the fiscal year in which an allocation from the SLESF is to be made. No person residing within the Broadmoor Police Protection District, the Bear Valley Community Services District, the Stallion Springs Community Services District, the Lake Shastina Community Services District, or the Kensington Police Protection and Community Services District shall also be counted as

residing within the unincorporated area of the County of San Mateo, Kern, Siskiyou, or Contra Costa, or within any city located within those counties. The county auditor shall allocate a grant of at least one hundred thousand dollars (\$100,000) to each law enforcement jurisdiction. Moneys allocated to the county pursuant to this subdivision shall be retained in the county SLESF, and moneys allocated to a city pursuant to this subdivision shall be deposited in a SLESF established in the city treasury.

~~—(4) Fifty percent (50%) to the county or city and county to implement a comprehensive multiagency juvenile justice plan as provided in this paragraph and to the Board of Corrections for administrative purposes. Funding for the Board of Corrections, as determined by the Department of Finance, shall not exceed two hundred seventy five thousand dollars (\$275,000). For the 2003-04 fiscal year, of the two hundred seventy five thousand dollars (\$275,000), up to one hundred seventy six thousand dollars (\$176,000) may be used for juvenile facility inspections. The juvenile justice plan shall be developed by the local juvenile justice coordinating council in each county and city and county with the membership~~

~~described in Section 749.22 of the Welfare and Institutions Code. If a plan has been previously approved by the Board of Corrections, the plan shall be reviewed and modified annually by the council. The plan or modified plan shall be approved by the county board of supervisors, and in the case of a city and county, the plan shall also be approved by the mayor. The plan or modified plan shall be submitted to the Board of Corrections by May 1, 2002, and annually thereafter.~~

~~—(A) Juvenile justice plans shall include, but not be limited to, all of the following components:~~

~~—(i) An assessment of existing law enforcement, probation, education, mental health, health, social services, drug and alcohol and youth services resources that specifically target at-risk juveniles, juvenile offenders, and their families.~~

~~—(ii) An identification and prioritization of the neighborhoods, schools, and other areas in the community that face a significant public safety risk from juvenile crime, such as gang activity, daylight burglary, late-night robbery, vandalism, truancy, controlled substances sales, firearm-related violence, and juvenile substance abuse and alcohol use.~~

~~—(iii) A local juvenile justice action strategy that provides for a continuum of responses to juvenile crime and delinquency and demonstrates a collaborative and integrated approach for implementing a system of swift, certain, and graduated responses for at risk youth and juvenile offenders.~~

~~—(iv) Programs identified in clause (iii) that are proposed to be funded pursuant to this subparagraph, including the projected amount of funding for each program.~~

~~—(B) Programs proposed to be funded shall satisfy all of the following requirements:~~

~~—(i) Be based on programs and approaches that have been demonstrated to be effective in reducing delinquency and addressing juvenile crime for any elements of response to juvenile crime and delinquency, including prevention, intervention, suppression, and incapacitation.~~

~~—(ii) Collaborate and integrate services of all the resources set forth in clause (i) of subparagraph (A), to the extent appropriate.~~

~~—(iii) Employ information sharing systems to ensure that county actions are fully coordinated, and designed to provide data for measuring the success of juvenile justice programs and strategies.~~

~~—(iv) Adopt goals related to the outcome measures that shall be used to determine the effectiveness of the local juvenile justice action strategy.~~

~~—(C) The plan shall also identify the specific objectives of the programs proposed for funding and specified outcome measures to determine the effectiveness of the programs and an accounting for all program participants, including those who do not complete the programs. Outcome measures of the programs proposed to be funded shall include, but not be limited to, all of the following:~~

~~—(i) The rate of juvenile arrests per 100,000 population.~~

~~—(ii) The rate of successful completion of probation.~~

~~—(iii) The rate of successful completion of restitution and court-ordered community service responsibilities.~~

~~—(iv) Arrest, incarceration, and probation violation rates of program participants.~~

~~—(v) Quantification of the annual per capita costs of the program.~~

~~—(D) The Board of Corrections shall review plans or modified plans submitted pursuant to this paragraph within 30 days upon receipt of submitted or resubmitted plans or modified plans. The board shall approve only those plans or modified plans that fulfill the requirements of this paragraph, and shall advise a submitting county or city and county immediately upon the approval of its plan or modified plan. The board shall offer, and provide if requested, technical assistance to any county or city and county that submits a plan or modified plan not in compliance with the requirements of this paragraph. The SLESF shall only allocate funding pursuant to this paragraph upon notification from the board that a plan or modified plan has been approved.~~

~~—(E) To assess the effectiveness of programs funded pursuant to this paragraph using the program outcome criteria specified in subparagraph (C), the following periodic reports shall be submitted:~~

~~—(i) Each county or city and county shall report, beginning October 15, 2002, and annually each October 15 thereafter, to the county board of supervisors and the Board of Corrections, in a format specified by the Board of Corrections, on the programs funded pursuant to this chapter and program outcomes as specified in subparagraph (C).~~

~~—(ii) The Board of Corrections shall compile the local reports and, by March 15, 2003, and annually thereafter, make a report to the Governor and the Legislature on program expenditures within each county and city and county from the appropriation for the purposes of this paragraph, on the outcomes as~~

~~specified in subparagraph (C) of the programs funded pursuant to this paragraph and the statewide effectiveness of the comprehensive multiagency juvenile justice plans.~~

(c) Subject to subdivision (d), for each fiscal year in which the county, each city, the Broadmoor Police Protection District, the Bear Valley Community Services District, the Stallion Springs Community Services District, the Lake Shastina Community Services District, and the Kensington Police Protection and Community Services District receive moneys pursuant to paragraph (3) of subdivision (b), the county, each city, and each district specified in this subdivision shall appropriate those moneys in accordance with the following procedures:

(1) In the case of the county, the county board of supervisors shall appropriate existing and anticipated moneys exclusively to provide frontline law enforcement services, other than those services specified in paragraphs (1) and (2) of subdivision (b), in the unincorporated areas of the county, in response to written requests submitted to the board by the county sheriff and the district attorney. Any request submitted pursuant to this paragraph shall specify the frontline law enforcement needs of the requesting entity, and those personnel, equipment, and programs that are necessary to meet those needs. The board shall, at a public hearing held at a time determined by the board in each year that the Legislature appropriates funds for purposes of this chapter, or within 30 days after a request by a recipient agency for a hearing if the funds have been received by the county from the state prior to that request, consider and determine each submitted request within 60 days of receipt, pursuant to the decision of a majority of a quorum present. The board shall consider these written requests separate and apart from the process applicable to proposed allocations of the county general fund.

(2) In the case of a city, the city council shall appropriate existing and anticipated moneys exclusively to fund frontline municipal police services, in accordance with written requests submitted by the chief of police of that city or the chief administrator of the law enforcement agency that provides police services for that city. These written requests shall be acted upon by the city council in the same manner as specified in paragraph (1) for county appropriations.

(3) In the case of the Broadmoor Police Protection District within the County of San Mateo, the Bear Valley Community Services District or the Stallion Springs Community Services District within Kern County, the Lake Shastina Community Services District within Siskiyou County, or the Kensington Police Protection and Community Services District within Contra Costa County, the legislative body of that special district shall appropriate existing and anticipated moneys exclusively to fund frontline municipal police services, in accordance with written requests submitted by the chief administrator of the law enforcement agency that provides police services for that special district. These written requests shall be acted upon by the legislative body in the same manner specified in paragraph (1) for county appropriations.

(d) For each fiscal year in which the county, a city, or the Broadmoor Police Protection District within the County of San Mateo, the Bear Valley Community Services District or the Stallion Springs Community Services District within Kern County, the Lake Shastina Community Services District within Siskiyou County, or the Kensington Police Protection and Community Services District within Contra Costa County receives any moneys pursuant to this chapter, in no event shall the governing body of any of those recipient agencies subsequently alter any previous, valid appropriation by that body, for that same fiscal year, of moneys allocated to the county or city pursuant to paragraph (3) of subdivision (b).

(e) Funds received pursuant to subdivision (b) shall be expended or encumbered in accordance with this chapter no later than June 30 of the following fiscal year. A local agency that has not met this requirement shall remit unspent SLESF moneys to the Controller for deposit into the General Fund.

(f) If a county, a city, a city and county, or a qualifying special district does not comply with the requirements of this chapter to receive an SLESF allocation, the Controller shall revert those funds to the General Fund.